

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: Venegas, Jr.

Serial No.: 10/798,635

Group No.: 3635

Filed: March 11, 2004

Examiner: A. Manaf

For: EXPLOSION-ABSORBING PANELS AND WALL STRUCTURES

APPELLANT'S REPLY BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to Appellant's argument that the mounts break away "upon a predetermined force," the Examiner contends (in the November 7, 2006 Examiner's Answer) that this constitutes merely "intended use," and not a structural difference. Appellant respectfully disagrees on the grounds that the Examiner appears to be overlooking the word "predetermined." The Examiner argues that in the Norton reference attachment by means of metal wire would break away upon a "predetermined force," for example, requiring replacement or attachment of metal wires such as chicken wire to the pipes or frame of the assembly. This appears to Appellant, as it would appear to anyone of skill in the art, that this "breaking away" of the Norton reference constitutes an uncontrolled, chaotic disintegration, and not one which is "predetermined." Appellant argues that if something is *designed* to break away with a predetermined force, then that design constitutes a specific structure since, otherwise, a predetermined force could not be achieved.

In regards to Appellant's argument that a pipe "filled" with cement does not read on a pipe which might get some cement in it when its put into a base material, the Examiner argues that this is merely a "product-by-process limitation." Again, Appellant respectfully disagrees. Once the process is completed, whatever that process might have been, a new structure is realized, namely, a pipe which is filled with cement. Since the prior art does not meet this limitation, a *prima facie* rejection has not been established.

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Respectfully submitted,

By. 

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Date: Jan. 8, 2007